

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

REGINALD PURNELL,

Petitioner,

v.

CASE NO. 2:07-cv-1050
CRIMINAL NO. 2:05-cr-192
JUDGE MARBLEY
MAGISTRATE JUDGE KING

UNITED STATES OF AMERICA,

Respondent.

ORDER

On October 12, 2007, Reginald Purnell filed a motion to vacate under 28 U.S.C. §2255. *Motion to Vacate*, Doc. No. 54. On November 8, 2007, petitioner filed an amended motion to vacate, which was intended to supplant the original motion. *Amended Motion to Vacate*, Doc. No. 57. The *Amended Motion to Vacate* asserts three (3) claims: ineffective assistance of counsel, prosecutorial misconduct and actual innocence. *Id.* On April 1, 2009, the Magistrate Judge issued an *Order and Report and Recommendation*, Doc. No. 97, denying petitioner's request to further amend the amended motion to vacate to assert new claims, granting in part petitioner's request to amend the amended motion to vacate to assert additional allegations of ineffective assistance of counsel, and recommending that the amended motion to vacate be dismissed. Petitioner has filed objections to the Magistrate Judge's *Order and Report and Recommendation*, objecting to the Magistrate Judge's denial of his request to amend the petition as time-barred. *Objection*, Doc. Nos. 101, 102. Petitioner requests the Court to liberally construe his amended motion to vacate. The Court

presumes that petitioner also objects to all of the Magistrate Judge's recommendations.

Pursuant to 28 U.S.C. §636(b), this Court concludes that the Magistrate Judge's order denying leave to further amend the *Amended Motion to Vacate* is neither clearly erroneous nor contrary to law. Furthermore, this Court has conducted a *de novo* review of the Magistrate Judge's *Report and Recommendation*. See 28 U.S.C. §636(b). For the reasons discussed in that *Report and Recommendation*, this Court agrees that the claims raised in the *Amended Motion to Vacate*, Doc. No. 57, are without merit.

Therefore, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

s/Algenon L. Marbley
ALGENON L. MARBLEY
United States District Judge